

LUCAS P. GIAVASSI  
CLERK OF COURTS  
STARK COUNTY, OHIO

IN THE COURT OF COMMON PLEAS  
STARK COUNTY, OHIO

2017 SEP 15 PM 2:36

N. KATHRYN WALKER  
306 Sandy, Avenue, NE  
Massillon, Ohio 44646

Plaintiff,

-vs.-

SAFECO INSURANCE COMPANY of  
INDIANA  
c/o Corporation Service Company (Registered  
Agent)  
135 North Pennsylvania Street, Suite 1610  
Indianapolis, IN, 46204

2017 CV 1877

CASE NO.: \_\_\_\_\_

Hartnett

JUDGE: \_\_\_\_\_

COMPLAINT

Type: Breach of Contract  
Bad Faith

(PLAINTIFFS INCORPORATE BY  
REFERENCE THE ATTACHED  
EXHIBITS WITH THE SAME FORCE  
AND EFFECT AS IF HEREIN SET  
FORTH)

Jury Demand Endorsed  
Hereon

INTRODUCTION

1. Plaintiff is an individual residing and owning property in Stark County, Ohio.
2. Defendant SAFECO INSURANCE COMPANY OF INDIANA ("SAFECO"), is an insurance company authorized to engage in the business of insurance in the State of Ohio. Summons may be served on SAFECO by serving "The Corporation Service Company", its registered agent, at 135 North Pennsylvania Street, Suite 1610, Indianapolis, Indiana 46204.
3. The amount in controversy is in excess of sixty-thousand dollars and surpasses the minimum jurisdictional limits of this Court. Venue is proper in Stark County because that is where all

ENTERED 51

or a substantial part of the events or omissions giving rise to the claim occurred and it is where SAFECO conducts business.

**COUNT ONE**

1. Plaintiff incorporates by reference all of the averments set forth above as if fully rewritten herein.
2. On or about September 15, 2015, Plaintiff's home at 306 Sandy Avenue, NE, located in the City of Massillon, Stark County, Ohio was insured by SAFECO, policy number OK6181592, (A true and accurate copy of which is attached as Exhibit "A".) Exhibit "A" was provided by SAFECO and if there are other parts to the contract they are in SAFECOs' possession.
3. Plaintiff's insurance policy with SAFECO provided coverage for accidental direct physical loss to the property located at 306 Sandy Avenue, NE, Massillon, Ohio ("the Premises").
4. On or about September 15, 2015, Plaintiff discovered that said property had been damaged as a result of accidental escape of water from a plumbing appliance on the premises.
5. On September 15, 2015 Plaintiff submitted a valid claim on SAFECO through SAFECO's adjuster ORLANDO REYES ("REYES") for coverage under policy number OK6181592.
6. REYES never visited the Premises and no other agents of SAFECO's personally inspected the Premises.
7. At the time of loss via water damage, Plaintiff called MIRACLE PLUMBING to repair the broken plumbing appliance.
8. A Miracle Plumbing sent a repair crew supervised by STEVE CAROSIELLE.
9. CAROSIELLE was on-site at the premises during the entire repair and inspected the broken plumping appliance that caused the premises to sustain water damage.

10. CAROSIELLE informed Plaintiff and later REYES that the broken plumbing appliance was a pipe that fed the house.
11. CAROSIELLE stated that the waterpipe broke inside the house because it had a split that was most likely caused by years of vibrating against the inside walls of the house.
12. Neither SAFFECO, REYES nor any agents or employees thereof ever visited the Premises.
13. Neither SAFFECO, REYES nor any agents or employees thereof ever conducted an inspection of the Premises.
14. On September 15, 2015, the same day that Plaintiff made her claim to SAFFECO, its adjustor REYES wrote a letter to Plaintiff denying coverage for damages to the Premises. (A true and accurate copy of which is attached as Exhibit "B".)
15. SAFFECO has refused to pay Plaintiff.
16. SAFFECO's refusal to pay the Plaintiff's valid claim is a breach of the Contract of Insurance between Plaintiff and SAFFECO.
17. As a result of SAFFECO's Breach of Contract, Plaintiff has suffered damages in an amount of at least \$60,000.00; or an amount to be determined at trial.

**COUNT TWO**

18. Plaintiff incorporates by reference all of the averments set forth above as if fully rewritten herein.
19. In adjusting Plaintiff's claim, SAFFECO acted unreasonable, without reasonable justification; fraudulently, maliciously, insultingly, oppressively, and not in good faith.
20. SAFFECO's actions demonstrate malice, aggravated or egregious fraud, oppression, or insult, and SAFFECO as principal or master, authorized, participated in, and ratified the actions or omissions of its agents, adjustors and employees.

21. SAFECO'S denial of Plaintiff's valid claim was without reasonable justification and amounts to bad faith, that as a direct and proximate result of SAFECO's conduct, Plaintiff has suffered mental anguish and inconvenience and by reason thereof Plaintiff is entitled to Judgment against SAFECO in an amount fair and reasonable over \$60,000.00, prejudgment interest, attorney fees and her costs.

**COUNT THREE**

22. Plaintiff incorporates by reference all of the averments set forth above as if fully rewritten herein.

23. SAFECO's conduct in refusing to pay Plaintiff's valid claim evidences that SAFECO acted with malice, fraud and oppression with intent to deny Plaintiff's valid claim; that SAFECO'S conduct evidences a state of mind under which its conduct was characterized by hatred, ill will, or a spirit of revenge; and as a result of the SAFECO's conduct Plaintiff is entitled to punitive damages against SAFECO in an amount in excess of \$60,000.00.

WHEREFORE, Plaintiff demands judgment against SAFECO on Count One in an amount of at least \$60,000.00, on Count Two in an amount determined to be fair and reasonable over \$60,000.00, on Count Three punitive damages in an amount in excess of \$60,000.00, prejudgment interests, attorney's fees and her costs; and such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,



William E. Walker, Jr. (0038703)

333 Erie Street, South #192

Massillon, Ohio 44648-0192

330.327.2509

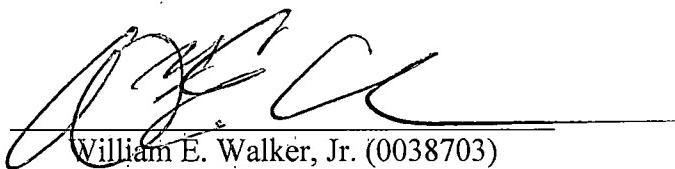
330.236.1826 [Fax]

williamwalker@gmx.com

*Counsel for Plaintiff*

**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all triable issues of fact.



William E. Walker, Jr. (0038703)

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GREENFELDER INS SERVICES INC  
5368 FULTON DR NW  
CANTON OH 44718-1811

April 23, 2015

Policy Number: OK6181592  
24-Hour Claims: 1-800-332-3226  
Policy Service: (330) 494-4505  
Online Account Services: www.safeco.com

THIS IS NOT A BILL.

KATHRYN WALKER  
306 SANDY AVE NE  
MASSILLON OH 44646-2041

Thank you for allowing us to continue serving your home insurance needs. We appreciate your business and the trust that you have placed in us.

This renewal reflects adjustments to your dwelling, other structures, and personal property limits. We have adjusted your dwelling coverage limit to reflect increases in labor and materials costs in your area. As part of your responsibility to maintain adequate amounts of insurance, please contact your agent to ensure that your limits reflect your dwelling's current features and characteristics, particularly if you have remodeled recently.

Your other structures and personal property limits, which are based on your dwelling coverage, have also been adjusted. You should review whether your coverage is adequate at least annually, and after each significant personal property purchase. If you would like to change your limits, or schedule any of your high value items, please contact your agent.

With this renewal the following changes were made, including those requested by you or your agent or broker:

- Your Dwelling Limits (Coverage A) changed from \$338,300 to \$345,100. Other coverage limits listed below also changed since they are factors of your dwelling limits.
- Your Other Structure Limits (Coverage B) changed from \$33,830 to \$34,510.
- Your Personal Property Limits (Coverage C) changed from \$169,150 to \$172,550.
- Your Additional Living Expense (Coverage D) changed from \$67,660 to \$69,020.

We would also like to draw your attention to the following:

- Your new policy period begins June 2, 2015. The 12-month premium for this policy is \$1,013.00 for the June 2, 2015 to June 2, 2016 policy term.
- This is not a bill. Your bill will be sent in a separate mailing approximately 25 days before it is due. It will provide an explanation of any money owed, your payment options with applicable fees and your payment due date.

PLEASE SEE REVERSE  
**SAFECO INSURANCE COMPANY OF INDIANA**  
P O BOX 515097, LOS ANGELES, CA 90051

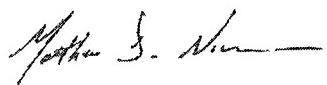
OC-429/EP 10/13

Exhibit "A"

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If you have any questions or wish to make any changes to your policy, you can do so by calling  
your agent at (330) 494-4505.

We appreciate the opportunity to serve you. Thank you.



Matthew D. Nickerson  
President, Safeco Insurance

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## IMPORTANT MESSAGE ABOUT YOUR POLICY

Thank you for renewing your home insurance with Safeco. We appreciate your business.

The coverage provided in your home policy is updated effective with this renewal. A new Special Provisions endorsement is provided and includes the changes summarized below.

### Cosmetic Damage to Metal Roofing

If the policy level of coverage you purchased is Essential or New-Quality-Plus, damage to a metal roof that alters the appearance of the roof, but not the functionality is now specifically excluded.

### Your Duties After Loss

Notice of damage resulting from windstorm or hail, must be given within 365 days of the actual loss.

### Property Loss Settlement

The policy now specifically states that any actual or perceived decrease in value of damaged property is not covered.

Please replace your current Special Provisions endorsement with the new Special Provisions endorsement included with this renewal and review it carefully. This endorsement modifies the terms and provisions of your coverage and should be kept with your policy.

If you would like to review these changes or have any other questions about your policy, please contact the independent Safeco agent or broker listed on the Policy Declarations.

*The above summary is for information purposes only and does not provide coverage. Your new Special Provisions endorsement, in conjunction with your policy and other applicable endorsements, provides complete details of your coverages. If this summary conflicts with the applicable policy language, the policy language prevails.*

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## IMPORTANT MESSAGE ABOUT CERTAIN OPTIONAL COVERAGES

Along with the changes provided by your new Special Provisions endorsement, certain optional coverage endorsements are also updated. The summary that follows describes the changes to each endorsement.

See the policy declarations page(s) that accompanies your renewal for details of the Optional Coverages applicable to your policy. If your previous policy included an optional coverage that is being continued, the new or most similar coverage is attached to the enclosed policy.

If your current policy does not contain one of the optional coverages described below, but you would like more information, please contact the agent or broker listed on the Policy Declarations.

### Personal Offense Coverage

If your policy includes Personal Offense Coverage, a revised endorsement is included. Updates have been made to specifically state the clear intent of coverage under this policy.

*The above summary is for information purposes only and does not provide coverage. We have summarized the changes we believe to be most significant. Your new optional coverage endorsements, in conjunction with your policy, provides complete details of your coverages. If this summary conflicts with the applicable policy language, the policy language prevails.*

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**SAFECO INSURANCE COMPANY OF INDIANA**  
 Home office: Safeco Plaza, Seattle, WA 98185-0001 (A stock insurance company.)  
**HOMEOWNERS POLICY DECLARATIONS**

**POLICY NUMBER:**  
 OK6181592

**POLICY PERIOD:** FROM: JUNE 2, 2015 12:01 A.M.  
 TO: JUNE 2, 2016 12:01 A.M.

**NAMED INSURED AND MAILING ADDRESS:**  
 KATHRYN WALKER  
 306 SANDY AVE NE  
 MASSILLON OH 44646-2041

**AGENT:**  
 GREENFELDER INS SERVICES INC  
 5368 FULTON DR NW  
 CANTON OH 44718-1811

Valued Homeowners Customer Since: JUNE 2, 2014

**INSURED LOCATION:**  
 Same

**POLICY SERVICE INFORMATION:**  
 TELEPHONE: (330) 494-4505  
 E-MAIL: DAN@GREENFELDER-MH.COM  
 WEBSITE: www.greenfelderinsurance.com

**IMPORTANT MESSAGES**

- Your policy has renewed effective June 2, 2015.
- Mine Subsidence Coverage is applicable to your policy.

**LIMITS OF LIABILITY**  
 (Policy Section I - Property Coverages and Section II - Liability Coverages)

Coverage A — Dwelling	Coverage B — Other Structures	Coverage C — Personal Property	Coverage D — Additional Living Expense	Coverage E — Personal Liability	Coverage F — Medical Payments
\$345,100	\$34,510	\$172,550	\$69,020	\$300,000	\$3,000

**DEDUCTIBLES.**

The following deductibles apply unless otherwise stated within the policy.

	AMOUNT
Section I - Property Coverages	\$ 1,000
BASIC COVERAGES	\$ 1,057.00
OTHER COVERAGES, LIMITS AND OPTIONAL COVERAGES	\$ 58.00
DISCOUNTS AND SURCHARGES	\$ -102.00
<b>TOTAL POLICY PREMIUM:</b>	<b>\$ 1,013.00</b>

**Premium Payer:** Insured

You may pay your premium in full or in installments. There is no installment fee for the following billing plans: Full Pay, Annual 2-Pay. Installment fees for all other billing plans are listed below. If more than one policy is billed on the installment bill, only the highest fee is charged. The fee is:

\$2.00 per installment for recurring automatic deduction (EFT)  
 \$2.00 per installment for recurring credit card or debit card  
 \$5.00 per installment for all other payment methods

Servicing Mortgagee  
 FAMIL & FRIENDS CREDIT UNION  
 3920 ERIE ST S  
 MASSILLON OH 44646

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**SAFECO INSURANCE COMPANY OF INDIANA  
HOMEOWNERS POLICY DECLARATIONS**


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CONTINUED

POLICY NUMBER: OK6181592

**POLICY LIMITS AND OTHER ADDITIONAL COVERAGES**

(Unless otherwise stated, all limits and coverages are included in basic coverages)

**COVERAGE LEVEL: NEW QUALITY-PLUS****SECTION I - PROPERTY COVERAGES****COVERAGE C - PERSONAL PROPERTY - 3. SPECIAL LIMITS OF LIABILITY**

a. Money, pre-paid cards...	\$ 250	h. Business Property	
b. Rare coins and currency...	\$ 3,000	On Premises...	\$ 3,000
c. Securities, debit cards...	\$ 3,000	Off Premises Sub-limit	\$ 1,000
d. Watercraft...	\$ 3,000	i. Tapes, records, discs...	\$ 500
e. Trailers...	\$ 3,000	j. Theft of rugs...	\$ 5,000
f. Theft of jewelry, watches...	\$ 3,000	k. Grave Markers...	\$ 3,000
g. Theft of silverware...	\$ 3,000		

**OTHER INCLUDED COVERAGES/POLICY PROVISIONS**

	Limit	Premium
Loss Assessment Coverage	\$ 3,000	Included
Building Ordinance or Law Coverage ( 10%)	\$ 34,510	Included
Fungi, Wet or Dry Rot, or Bacteria	\$ 10,000	Included
Reasonable Repairs	\$ 5,000	Included
Fire Department Service Charge	\$ 3,000	Included
Land Stabilization	\$ 5,000	Included
Arson Reward	\$ 25,000	Included
Criminal Conviction Reward - Item a. Information	\$ 2,500	Included
Criminal Conviction Reward - Item b. Property Recovery	\$ 5,000	Included
Credit Card, Fund Transfer, Forgery & Counterfeit Money	\$ 3,000	Included
Volunteer America		Included
Section I (All Perils Coverage)		Included
Section II - Liability Coverage		Included
Section II - Property Damage	\$ 2,000	Included

**OPTIONAL COVERAGES**

	Limit	Premium
Personal Property Replacement Cost		Included
Extended Dwelling Coverage	Up to 25%	Included
Personal Offense Coverage	\$ 300,000	\$ 8.00
Escape of Water from Sump (Building/Contents)	\$ 5,000	\$ 49.00
Mine Subsidence Coverage	\$ 300,000	\$ 1.00

**DISCOUNTS AND SURCHARGES**

	Premium
Advance Quote Discount	\$ -102.00

For information on other deductibles, coverages or discounts available in your state or to review your account online, log on to [www.safeco.com](http://www.safeco.com)

**FORMS APPLICABLE TO THIS POLICY:**

HOM-7301/EP 1/09	- PERSONAL PROPERTY REPLACEMENT COST
HOM-7210/EP 1/09	- SAFECO NEW QUALITY-PLUS HOMEOWNERS CVRG
HOM-7311/EP 1/09	- ESCAPE OF WATER FROM SUMP/SUMP PUMP DRAIN (BLDG AND CONT)
HOM-7313/OHEP 9/13	- OHIO MINE SUBSIDENCE INSURANCE COVERAGE FORM
HOM-7030/EP 1/09	- HOMEOWNERS POLICY
HOM-7232/EP 1/09	- EXECUTION CLAUSE
HOM-7300/EP 1/12	- EXTENDED DWELLING COVERAGE
HOM-7350/EP 11/14	- PERSONAL OFFENSE COVERAGE
HOM-7100/OHEP 11/14	- SPECIAL PROVISIONS - OHIO

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## SPECIAL PROVISIONS — OHIO

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### SECTION I — PROPERTY COVERAGES

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#### BUILDING PROPERTY LOSSES WE DO NOT COVER

Item 6.f. is deleted and replaced by the following:

- f. birds, vermin, rodents, insects or domestic animals, except for breakage of glass;

The following is added:

21. **Cosmetic loss or damage**, meaning any loss that is limited to the physical appearance of a metal roof surface.

Metal roof means all metal roofing materials on a metal roofing system. For purposes of this exclusion, metal roof does not include the coverings of bay or bow windows. This exclusion does not apply when the roof overlay is a material other than metal.

This exclusion does not apply to policies endorsed with HOM-7220, Optimum™ Homeowners Coverage or HOM-7223, Ultra Homeowners Coverage.

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#### PERSONAL PROPERTY WE DO NOT COVER

Item 3.a. is deleted and replaced by the following:

- a. motorized land vehicles used solely to service a residence and not subject to motor vehicle registration or licensed for road use;
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#### ADDITIONAL PROPERTY COVERAGES

Under item 7. **Building Ordinance or Law Coverage** the following changes are made:

Item b. is deleted and replaced by the following:

- b. the costs to comply with any ordinance which requires any insured or others to test for, monitor, cleanup, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, **pollutants or contaminants**. However, for purposes of **Building Ordinance or Law Coverage**, **pollutants or contaminants** shall not include asbestos or materials containing asbestos or lead.

The following is added to the paragraph describing limit of liability:

In the event of a covered loss resulting from an Insurance Services Offices® declared catastrophe for the state in which the **residence premises** is located, the limit for Building Ordinance or Law shall be up to twice the percentage shown for Building Ordinance or Law on the Policy Declarations.

Item 14. **Mortgage Acquisition Expense Coverage** is added as follows (this is item 16. for the New Quality-Plus coverage level; item 18. for the Optimum and Ultra coverage levels):

14. **Mortgage Acquisition Expense Coverage**. In the event of a total loss of the dwelling shown in the Policy Declarations by a covered cause of loss, we will pay necessary expenses and fees toward the acquisition of a new first mortgage to repair or replace the insured dwelling, up to a maximum of \$5,000.

No deductible applies to this coverage.

This is an additional amount of insurance.

This coverage 14. **Mortgage Acquisition Expense Coverage** does not apply to policies endorsed with HOM-7428/EP, Ultra Plus/Special Ultra Plus Coverage.

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## SECTION I — PROPERTY CONDITIONS

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Under 3. An Insured's Duties After Loss, item b. is deleted and replaced by the following:

- b. give immediate notice to us or our agent. With respect to loss caused by the peril of Windstorm or Hail, the notice must be within 365 days after the date of the loss;

Under 5. Loss Settlement, item a.(3) is deleted and replaced by the following:

- (3) If the cost to repair or replace is \$2,500 or more, we will pay the difference between ***actual cash value*** and ***replacement cost*** only when the damaged or destroyed property is repaired or replaced.

The following is added to 5. Loss Settlement:

- c. We will not pay for any loss in value of property, whether actual or perceived, or any;
  - (1) adverse impact on the ownership of, or transfer of ownership or title of property; or
  - (2) adverse impact on the acquisition of financing resulting from the covered physical damage to the property. If **Mortgage Acquisition Expense Coverage** or **Mortgage Extra Expense Coverage** is provided under Additional Property coverages, the application of this provision (2) does not apply to the extent coverage is provided for **Mortgage Acquisition Expense** or **Mortgage Extra Expense**.

Item 7. Appraisal is deleted and replaced by the following:

- 7. **Appraisal.** If you and we do not agree on the amount of the loss, including the amount of ***actual cash value*** or ***replacement cost***, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of you or the company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately the ***actual cash value*** or ***replacement cost*** of each item, and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two of these three, when filed with the company shall determine the amount of loss.

Each party will:

- a. pay its own appraiser; and
- b. bear the other expenses of the appraisal and umpire equally.

In no event will an appraisal be used for the purpose of interpreting any policy provision, determining causation or determining whether any item or loss is covered under this policy. If there is an appraisal, we still retain the right to deny the claim.

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## SECTION II — LIABILITY COVERAGES

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### LIABILITY LOSSES WE DO NOT COVER

Item 1.f.(2)(d) is deleted and replaced by the following:

- (d) a motorized land vehicle used solely for assisting the handicapped or solely for the maintenance of a residence, which is:
  - i. not designated for travel on public roads; and
  - ii. not subject to motor vehicle registration, licensing or permits;

The following is added to item 1.:

- n. arising out of the actions of a dangerous or vicious dog, as defined under OHIO REV. CODE, Sec 955.11, and the **Insured's** failure to keep:
  - (1) the dangerous dog, while on the premises of the owner, keeper or harborer, restrained by a leash or a tether;

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- (2) the vicious dog while on the premises of the owner, keeper or harborer, securely confined at all times in a locked pen that has a top, a locked fenced yard or other locked enclosure that has a top; and
- (3) the dangerous and vicious dog while off the premises of the owner, keeper or harborer, on a chain-link leash or tether that is not more than six feet in length and in addition, keep the dog:
  - (a) confined in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top;
  - (b) leashed or tethered and controlled by a person who is of suitable age and discretion or securely attach, tie or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person; or
  - (c) muzzled.

This exclusion does not apply to **bodily injury** to a **residence employee** arising out of and in the course of the **residence employee's** employment by an **insured**.

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## SECTIONS I AND II — PROPERTY AND LIABILITY CONDITIONS

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### 4. Cancellation

Paragraph b. is deleted and replaced by the following:

- b. We may cancel this policy, as stated below, by letting you know in writing of the date cancellation takes effect. This cancellation notice may be delivered to you, or mailed to you at your mailing address shown in the Policy Declarations. Proof of mailing will be sufficient proof of notice.
- (1) We may cancel at any time by letting you know at least 10 days before the date cancellation takes effect if we cancel because:
    - (a) You have not paid the premium;
    - (b) There has been a material misrepresentation of fact related to this insurance; or
    - (c) Evidence of arson exists.
  - (2) When this policy has been in effect for less than 60 days and is not a renewal with us, we may cancel for any reason by letting you know at least 30 days before the date cancellation takes effect.
  - (3) When this policy has been in effect for 60 days or more, or at any time if it is a renewal with us, we may cancel if the risk has changed substantially since the policy was issued. This can be done by letting you know at least 30 days before the date cancellation takes effect.
  - (4) When this policy is written for a period of more than one year, we may cancel for any reason at anniversary by letting you know at least 30 days before the date cancellation takes effect.

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## POLICY DEFINITIONS

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Under 3.a. "**Actual Cash Value**", item (4) is deleted.

All other provisions of this policy apply.

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**PERSONAL OFFENSE COVERAGE  
ANNUAL AGGREGATE LIMIT OF LIABILITY**

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For an additional premium we will provide **personal offense** coverage as described in this endorsement, subject to the following:

**SECTION II — LIABILITY COVERAGES**  
**LIABILITY LOSSES WE COVER**  
**COVERAGE E — PERSONAL LIABILITY**

The following is added:

**Personal Offense Coverage**

If a claim is made or suit is brought against an **insured** for damages resulting from an offense defined under **personal offense** and to which this coverage applies, we will:

1. pay up to the **annual aggregate limit** for damages for which an **insured** is legally liable; and
  2. provide a defense at our expense by counsel of our choice, even if the allegations are groundless, false or fraudulent. We may investigate and settle any claim or suit that we decide is appropriate. Our duty to settle or defend ends when our **annual aggregate limit** has been exhausted by payment of judgments or settlements.
- 

**SECTION II — LIABILITY COVERAGES**  
**LIABILITY LOSSES WE DO NOT COVER**  
**COVERAGE E — PERSONAL LIABILITY**

To the extent coverage is provided by this endorsement, coverage does not apply to **personal offense**:

- a. caused by or at the direction of an **insured** with the knowledge that the act would violate the rights of another and would be a **personal offense**;
- b. arising out of oral or written communication or publication of material, if done by, or at the direction of, or with the cooperation of an **insured** with knowledge of its falsity;
- c. occurring before the beginning of the policy period;
- d. arising out of a criminal act committed by, at the direction of, or with the cooperation of an **insured** knowing of the criminal nature;
- e. arising out of liability assumed by an **insured** under any contract or agreement, except any indemnity obligation assumed by an **insured** under a written contract directly relating to the ownership, maintenance or use of the premises;
- f. sustained by any person as a result of an offense directly or indirectly related to the employment of this person by an **insured**;
- g. arising out of or in connection with a **business** conducted by an **insured**.

This exclusion does not apply to:

- (1) the rental or holding for rental of an **insured location**:
  - (a) on an occasional basis for the exclusive use only as a residence;
  - (b) in part, unless intended as a residence by more than two roomers or boarders; or
  - (c) in part, as an office, school, studio or private garage; and
- (2) the occasional or part-time **business** pursuits of any **insured** who is under 23 years of age;

- b. arising out of civic or public activities performed for pay by an **insured**;
- i. sustained by you or any **insured**.

This exclusion also applies to any claim made or suit brought against you or an **insured** to:

- (1) repay; or

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- (2) share damages with another person who may be obligated to pay damages arising out of any **personal offense** to an **insured**.

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## SECTION II — LIABILITY COVERAGES

### ADDITIONAL LIABILITY COVERAGES

To the extent coverage is provided by this endorsement, item 6. **Loss Assessment** is deleted and replaced by the following:

#### 6. **Loss Assessment**

We will pay up to the amount shown in the declarations for Loss Assessment for your share of loss assessment charged against you by the association of property owners when the assessment is made as a result of an offense named under the definition of **personal offense** and not excluded under this endorsement. We do not cover assessments charged against you or a corporation or association of property owners by any governmental body.

Regardless of the number of assessments, the limit shown in the Policy Declarations for Loss Assessment is the most we will pay for loss arising out of **personal offense**.

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## SECTION II — LIABILITY CONDITIONS

To the extent coverage is provided by this endorsement, items 1. **Limit of Liability**, 2. **Severability of Insurance** and 3. **Your Duties After Loss** are deleted and replaced by the following:

#### 1. **Limit of Liability**

Our total liability under **Personal Offense Coverage** for all damages resulting from **personal offense** occurring in a policy period will not be more than the Limit of Liability shown in the Policy Declarations for this coverage which is an **annual aggregate limit**.

#### 2. **Severability of Insurance**

This insurance applies separately to each **insured** except with respect to the **annual aggregate limit**. This condition will not increase our **annual aggregate limit** for this coverage.

#### 3. **Your Duties After Loss**

In the event of a covered offense, you or another **insured** will perform the following duties that apply. We have no duty to provide coverage under this policy if your failure to comply with the following duties is prejudicial to us. You will help us by seeing that these duties are performed:

- a. give written notice to us or our agent as soon as is practical, which sets forth:
  - (1) the identity of the policy and named **insured**;
  - (2) reasonably available information on the time, place and circumstances of the offense; and
  - (3) names and addresses of any claimants and witnesses;
- b. cooperate with us in the investigation, settlement or defense of any claim or suit;
- c. promptly forward to us every notice, demand, summons or other process relating to the offense;
- d. at our request, help us:
  - (1) to make settlement;
  - (2) to enforce any right of contribution or indemnity against any person or organization who may be liable to an **insured**;
  - (3) with the conduct of suits and attend hearings and trials; and
  - (4) to secure and give evidence and obtain the attendance of witnesses;
- e. no **insured** shall, except at such **insured**'s own cost, voluntarily make payment, assume obligation or incur expense other than for first aid to others at the time of the **personal offense**.

\*\*\* REPRINTED FROM THE ARCHIVE. THE ORIGINAL TRANSACTION MAY INCLUDE ADDITIONAL FORMS \*\*\*

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## SECTION I AND II — PROPERTY AND LIABILITY CONDITIONS

Item 1.a. Policy Period applies to *personal offense*.

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### DEFINITIONS

To the extent coverage is provided by this endorsement, the following are added to item 3.:

**"Personal offense"** means injury arising out of one or more of the following offenses:

- (1) false arrest, detention or imprisonment;
- (2) malicious prosecution;
- (3) wrongful eviction or wrongful entry;
- (4) oral or written publication, in any manner, of material that slanders, libels or defames the character of a person, which occurs in any manner; or
- (5) invasion of privacy, which occurs in any manner.

**"Annual aggregate limit"** means the amount shown in the Policy Declarations for **Coverage E — Personal Liability** is the most we will pay for the total of all offenses occurring in a policy period, or offenses of the same general nature continuing in succeeding policy periods, and regardless of the number of insureds, claims made or suits brought.

All other provisions of this policy apply.



A Liberty Mutual Company

Safeco Insurance Company of Indiana

Mailing Address:

Phone: (330) 437-6722

September 15, 2015

Kathryn Walker  
306 Sandy Ave Ne  
Massillon, OH 44646-2041

Insured Name: Kathryn Walker  
Policy Number: OK6181592  
Loss Date: September 15, 2015  
Claim Number: 882299306033

Dear Ms. Kathryn Walker:

Safeco Insurance Company of Indiana would like to thank you for the opportunity to service you.

You have submitted this claim to Safeco Insurance Company of Indiana for potential payment under policy OK6181592 for damages to your property located at 306 Sandy Ave Ne, Massillon, OH, 44646-2041. After a review of your policy and the facts that have come to our attention, Safeco Insurance Company of Indiana regrets that it is unable to provide payment for the damages you have claimed because your policy does not provide coverage for this loss. Our reasons for this denial are as follows:

As you are aware, this claim arises from water below the surface of the ground which exerts pressure on, or seeps through a building. Our investigation revealed that the water main broke outside of the foundation of the home, surrounded the home and seeped into the home via the foundation, per our conversation.

Your insurance policy form Safeco Homeowner Policy HOM-7030, includes the following provision:

**BUILDING PROPERTY LOSSES WE DO NOT COVER**

We do not cover loss caused directly or indirectly by any of the following excluded perils. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss.

These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area;

10. Water Damage, meaning:

- b. water below the surface of the ground, including that which exerts pressure on, or seeps or leaks through a building, wall, bulkhead, sidewalk, driveway, foundation,

*Ex. B*

Page 2  
Kathryn Walker  
September 15, 2015

swimming pool, hot tub or spa, including their filtration and circulation systems, or other structure;

Therefore, according to the terms and conditions of your policy, we are unable to provide any coverage for this loss.

At all times, we strive to fully assess our coverage potential. We are always open to reevaluating our position, should new facts come to light. If you have any additional information that you believe will have a material effect on our determination of coverage, please provide that information to us in writing at your earliest opportunity. You should, however, regard this as a denial of your claim.

Safeco Insurance Company of Indiana may continue to investigate this claim. However, Safeco Insurance Company of Indiana reserves any and all rights and defenses allowed under the policy of insurance and the law. No action taken by Safeco Insurance Company of Indiana, its employees and/or agents, is intended to be or should be considered to be a waiver of any of these rights or defenses under the policy of insurance or the law.

Sincerely,

Orlando Reyes

Safeco Insurance Company of Indiana  
(330) 437-6722  
[Orlando.Reyes@Safeco.com](mailto:Orlando.Reyes@Safeco.com)

Ex. B

STARK COUNTY COMMON PLEAS COURT  
CIVIL DESIGNATION FORM

PURSUANT TO LOCAL RULE 9.02, THIS FORM MUST BE FILLED OUT IN ITS ENTIRETY.  
IF THIS FORM IS NOT FILLED OUT IN ITS ENTIRETY, THE COMPLAINT AND ALL  
OTHER DOCUMENTS WILL BE RETURNED BY THE CLERK WITHOUT FILING.

CASE NUMBER 2017CV01877

**Hartnett**

PLAINTIFF

N. KATHRYN WALKER

-vs-

DEFENDANT

SAFECO INSURANCE COMPANY of INDIANA

Has this case been previously filed and dismissed?  Yes  No. If yes, list case no. and judge. \_\_\_\_\_

List all related pending case(s) including case number and judge. \_\_\_\_\_

**CIVIL CATEGORIES: PLACE (X) IN ONE CATEGORY ONLY**

- |   |   |
|---|---|
| <input type="checkbox"/> A. Professional Tort     | <input type="checkbox"/> E. Foreclosure                                 |
| <input type="checkbox"/> Medical Malpractice      |   |
| <input type="checkbox"/> Dental Malpractice       |   |
| <input type="checkbox"/> Optometric Malpractice   | <input type="checkbox"/> F. Administrative Appeal                       |
| <input type="checkbox"/> Chiropractic Malpractice |   |
| <input type="checkbox"/> Legal Malpractice        | <input type="checkbox"/> G. Complex Litigation Classification Requested |
| <input type="checkbox"/> Other Malpractice        |   |
|   |   |
| <input type="checkbox"/> B. Product Liability     |   |
|   |   |
| <input type="checkbox"/> C. Other Tort            | <input checked="" type="checkbox"/> H. Other Civil                      |
| <input type="checkbox"/> Personal Injury          | <input type="checkbox"/> Contract Case                                  |
| <input type="checkbox"/> Personal Injury- Auto    | <input checked="" type="checkbox"/> Miscellaneous Civil                 |
| <input type="checkbox"/> Miscellaneous            | <input type="checkbox"/> Real Property                                  |
|   |   |
| <input type="checkbox"/> D. Workers Compensation  | <input type="checkbox"/> Consumer Sales Practices Act                   |
|   |   |
| <input type="checkbox"/> Credit Card Case         |   |

**Brief Factual Summary:**

**Safeco breached contractual duties in bad faith.**

Description of damages including all special damages to date:

*Water Damage*

Do you think this case should be referred to the Court Mediation Program at this time?  Yes  No  
Reasons: \_\_\_\_\_

Is this case based on a violation of the Ohio Mortgage Broker Act (ORC 1322)?  Yes  No

William Walker

Firm Name (Print or Type)

333 Erie St. S. #192

Address

Massillon, OH 44646-0192

330.327.2509

Telephone

REV. 9/09

William Walker

Attorney of Record (Print or Type)

*W.Walker*  
Signature

Attorney Registration Number

2017 SEP  
STARK COUNTY, OHIO

PH 2-86



Date Produced: 09/25/2017

STARK COUNTY CLERK OF COURTS:

The following is the delivery information for Certified Mail™ item number 7199 9991 7037 6734 6731. Our records indicate that this item was delivered on 09/21/2017 at 09:50 a.m. in INDIANAPOLIS, IN 46204. The scanned image of the recipient information is provided below.

Signature of Recipient :

Mr.	Mary Cole
Ms.	Mary Coleman

Address of Recipient :

Every address
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Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,  
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.